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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,765	04/09/2004	Douglas H. Werner	PST-12302/36	1462
25006	7590	08/23/2005	EXAMINER	
GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C			LE, HOANGANH T	
PO BOX 7021			ART UNIT	
TROY, MI 48007-7021			PAPER NUMBER	
			2821	
DATE MAILED: 08/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	<b>Application No.</b> 10/821,765	<b>Applicant(s)</b> WERNER ET AL.	
	<b>Examiner</b> HoangAnh T. Le	<b>Art Unit</b> 2821	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
**HoangAnh Le**  
**Primary Examiner**

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/12/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

1. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Objections***

2. Claims 16-18 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 16-18 fail to further limit the subject matter of the independent claim 9.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Lilly et al (the US patent No. 6,501,427).

The Lilly et al reference teaches in figure 29A a reconfigurable frequency selective surface (FSS) comprising: a plurality of conducting patches 404 supported on a first surface of a dielectric material 408; and a plurality of switches 406, each switch electrically interconnecting at least two of the plurality of conducting patches 404 when

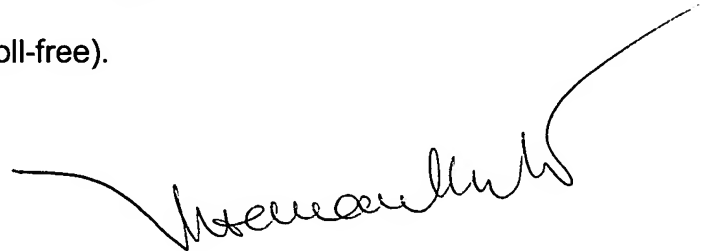
Art Unit: 2821

the switch is selected, wherein a first ensemble of switches is selectable so as to provide a first configuration of electrically interconnected conducting patches, and a second ensemble of switches is selectable so as to provide a second configuration of electrically interconnected conducting patches (figure 29A) 2. The first configuration of electrically interconnected conducting patches provides a first resonance frequency, and the second configuration of electrically interconnected conducting patches provides a second resonance frequency (col. 1, lines 43-46, and 31-65). The first configuration of electrically interconnected conducting patches comprises a repeated unit cell pattern of electrically interconnected conducting patches (col. 11, lines 30-39). The first configuration of electrically interconnected conducting patches comprises a two-dimensional array of unit cell patterns of electrically interconnected conducting patches (figure 29A). The plurality of conducting patches is disposed in a square or rectangular grid pattern on the first surface of the dielectric material (figure 29A). Each conducting patch has a square or rectangular shape. The plurality of conducting patches is arranged in a plurality of fractal arrays (figure 29F). A second surface of the dielectric material supports a conducting sheet 410, wherein the first configuration provides an artificial magnetic conductor having a first resonance frequency (col. 1, lines 40-46). The electrical interconnection configuration is controlled by a plurality of electrical switches (figure 29A). The electrical switches comprise transistors (col. 6, line 45). The electrical switches comprise resonant circuits (col. 6, lines 46).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HoangAnh T. Le whose telephone number is (571) 272-1823. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'HoangAnh Le', with a long, sweeping horizontal line extending to the left and a vertical line extending upwards to the right.

**HoangAnh Le**  
**Primary Examiner**